

TREASURY - GENERAL

**STATE INVESTMENT COUNCIL
Equity Futures Contracts**

Proposed Amendments: N.J.A.C. 17:16-47.2

Authorized By: State Investment Council, Peter A. Langerman, Director,
Division of Investment

Authority: N.J.S.A. 52:18A-91

Calendar Reference: See Summary below for explanation of exception to calendar
requirement.

Proposal Number: PRN 2004-127

Submit comments by June 4, 2004 to:

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The agency proposal follows:

Summary

The proposed amendments to N.J.A.C. 17:16-47.2 define permissible investments to include equity futures contracts with a minimum average daily trading volume of \$US 1 billion and that trade on the U.S. Futures Exchanges or Futures Exchanges in countries approved for investment as set forth in N.J.A.C. 17:16-20 or N.J.A.C. 17:16-46; eliminates the Approved List of Equity Futures Contracts; and permit approval by the Council for the purchase of equity futures contracts on a case-by-case basis.

Given the thousands of individual investments comprising the Approved Lists, it has become unrealistic to expect that Council members will have extensive knowledge of all of these investments. Eliminating the Approved Lists at N.J.A.C. 17:16-47.2 (b) and

(c), while at the same time providing criteria for selection of individual investments, gives recognition to the fact that the Council relies on the Division of Investment to have this in-depth knowledge and to select particular investments. Since the Division of Investment will be reporting to the Council on investment activities, the Council shall continue to be able to fulfill its role of monitoring of investments contained in the various portfolios.

Pursuant to the proposed amendments at N.J.A.C. 17:16-47.2 (b) and (c), the Division of Investment is authorized to purchase only investments that meet the requirements set forth in the subchapter. However, there may arise, from time to time, certain unique circumstances where the Division wishes to purchase an investment that does not meet the requirements set forth in the subchapter. In such event, the proposed amendments provide that the Division could present justification to the Council, and the Council would have the authority to approve the purchase on a case-by-case basis.

Because the Division is providing a 60-day comment period on this notice of proposal, this notice is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

There shall be no social impact from the proposed amendments, although the long term economic effects could benefit the State's taxpayers.

Economic Impact

The proposed amendments may provide an opportunity to earn greater returns as well as to broaden the diversification of the State-administered funds.

Federal Standards Statement

A Federal standards analysis is not required because the investment policy rules of the Division of Investment are under the auspices of the State Investment Council, and are not subject to any Federal requirements or standards.

Jobs Impact

The State Investment Council and the Division of Investment do not anticipate that any jobs will be generated or lost by virtue of the amendments to this rule.

Agriculture Industry Impact

The proposed amendments shall have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, since the proposed amendments impose no requirements on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but regulates only the Director of the Division of Investment.

Smart Growth Impact

The proposed amendments are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

17:16-47.2 Permissible investments

(a) Subsections (b), (c) and (d) below, are subject to the limitations contained in this subchapter.

[(b) The Director shall submit a list of equity futures contracts to the Council for its approval. Such list may be amended or enhanced from time to time, subject to the Council's approval and shall be designated the "Approved List of Equity Futures Contracts."]

(b) The Director may purchase and sell equity futures contracts in connection with the domestic equity securities held in Common Pension Fund A and the international equity securities held in Common Pension Fund D.

[(c) Any equity futures contract purchased or sold shall be listed on the "Approved List of Equity Futures Contracts."]

(c) Permissible investments include equity futures contracts with a minimum average daily trading volume of \$US 1 billion and that trade on the U.S. Futures Exchanges or Futures Exchanges in countries set forth in N.J.A.C. 17:16-20 or N.J.A.C. 17:16-46.

(d) (No change.)

(e) The Council may approve the purchase of equity futures contracts on a case-by-case basis.